

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

NEVIA B. GONZALEZ
TX-1329263-R

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DOCKETED COMPLAINT NO.
09-136

FINAL ORDER

On this 21st day of August, 2009, the Board considered the above-noted matter.

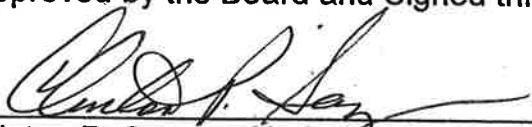
After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the certification of Nevía B. Gonzalez in this matter is hereby **REVOKED**, effective twenty days after the date Nevía B. Gonzalez is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and Signed this 21st day of August, 2009.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board

EXHIBIT A

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

July 27, 2009

RECEIVED

JUL 26 2009

Texas Real Estate Commission

Loretta DeHay
Interim Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

**RE: Docket No. 329-09-4240.ALC, Texas Appraiser Licensing and Certification Board,
v., Nevla B. Gonzalez**

Dear Ms. DeHay:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Shannon Kilgore".

Shannon Kilgore
Administrative Law Judge

SK/slc
Enclosure

xc: Troy Beaulieu, Staff Attorney, 1101 Camino La Costa, Austin TX 78752 – VIA INTER-AGENCY
Nevla B. Gonzalez, 4219 Willowbrook Dr., San Antonio, TX 78244 - VIA REGULAR MAIL
Della Lindquist, Director of Enforcement, TREC, 1101 Camino La Costa, Austin, TX 78752-VIA INTER-AGENCY

SOAH DOCKET NO. 329-09-4240.ALC

TEXAS APPRAISER LICENSING AND
CERTIFICATION BOARD,
Petitioner

V.

NEVIA B. GONZALEZ,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Appraiser Licensing and Certification Board¹ (Board) seeks to revoke the residential real property appraiser certification (license) issued to the respondent, Nevla B. Gonzalez. Staff alleges that Respondent violated the Board's rules by failing to comply with the requirements of an earlier agreed order issued by the Board. Further, Staff alleges that Ms. Gonzalez failed to respond to Staff's inquiries about the matter, also in violation of the Board's rules. Ms. Gonzalez did not respond to Staff's allegations and did not appear at the hearing. The administrative law judge (ALJ) recommends that her license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On July 22, 2009, ALJ Shannon Kilgore convened the hearing at the State Office of Administrative Hearings (SOAH), William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff Attorney Troy Beaulieu represented Staff. Ms. Gonzalez did not appear and was not represented at the hearing.

Staff moved for a default. After establishing that appropriate notice of the hearing was provided to Ms. Gonzalez and that the Board has jurisdiction, the ALJ granted the default. In accordance with SOAH's rules, the allegations in Staff's notice of hearing are deemed true.²

¹ The Texas Appraiser and Licensing Certification Board is an independent subdivision of the Texas Real Estate Commission. TEX. OCC. CODE § 1103.051.

II. FINDINGS OF FACT

1. The respondent, Nevla B. Gonzalez, holds residential real property appraiser certification (license) number TX-1329263-R issued by the Texas Appraiser License and Certification Board (Board).
2. On or about October 7, 2007, the Board issued an agreed final order against Ms. Gonzalez, requiring that she complete certain remedial education and pay an administrative penalty.
3. Ms. Gonzalez has failed to timely comply with the remedial education component of the agreed final order.
4. The Board's staff (Staff) notified Ms. Gonzalez that the agency was pursuing a complaint against her related to her failure to comply with the agreed final order of the Board. The notification provided Ms. Gonzalez with the opportunity to respond to the allegations and requested that she provide certain documentation to Staff.
5. No response was ever received from Ms. Gonzalez; she has failed to provide the requested information.
6. Ms. Gonzalez's last address of record on file with the Board is: 4219 Willowbrook Drive, San Antonio, Texas 78228.
7. On May 15, 2009, the Board's staff (Staff) sent Ms. Gonzalez its Original Statement of Charges by certified mail to her last address of record on file with the Board.
8. On May 18, 2009, Staff sent its Notice of Hearing by certified mail to Ms. Gonzalez at her last known address of record on file with the Board.
9. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
10. The notice of hearing, in at least 12-point bold-faced font, notified Respondent that failure to appear at the hearing would result in the original statement of charges being admitted as true, the relief sought by the Board being granted, and a default judgment being taken against her.
11. The hearing on the merits convened on July 22, 2009, at the State Office of Administrative Hearings, William B. Clements Building, 300 West 15th Street, Austin, Texas.

² 1 TEX. ADMIN. CODE § 155.501.

12. Staff appeared at the hearing through Staff Attorney Troy Beaulieu. Ms. Gonzalez did not appear, either personally or through counsel.
13. Staff moved for default, which was granted following the admission of evidence establishing proper jurisdiction and notice.

III. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter. TEX. OCC. CODE ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. TEX. OCC. CODE § 1103.508; TEX. GOV'T CODE chs. 2001 and 2003.
3. Ms. Gonzalez was required to notify the Board of any change of her office address not later than the 10th day after the date she moved from a previously designated address. TEX. OCC. CODE § 1103.403.
4. Service of the notice of hearing on Ms. Gonzalez was complete and effective upon proper mailing of the notice by certified mail to Ms. Gonzalez's most recent address as shown in the Board's records. 22 TEX. ADMIN. CODE § 157.9(b).
5. Staff sent proper and timely notice of the hearing to Ms. Gonzalez. TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052; TEX. OCC. CODE § 1103.502.
6. The factual allegations in Staff's notice of hearing are deemed admitted. 1 TEX. ADMIN. CODE § 155.501.
7. Ms. Gonzales is subject to sanction because she failed to comply with an agreed final order of the Board, and failed to respond to the Board's inquiries, in violation of the applicable rules. 22 TEX. ADMIN. CODE §§ 153.20(a)(21), 153.22.
8. The Board is authorized to suspend or revoke Ms. Gonzalez's license for violation of the Board's rules. TEX. OCC. CODE § 1103.518(2)(B); 22 TEX. ADMIN. CODE § 153.20(a)(2).

IV. RECOMMENDATION

The Board should revoke Ms. Gonzalez's real estate appraiser license.

SIGNED July 27, 2009.



SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS